

BEFORE THE STATE TAX APPEAL BOARD  
OF THE STATE OF MONTANA

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MILDRED L. BAUMAN, )  
 ) DOCKET NO.: PT-2003-127  
 )  
Appellant, )  
 )  
-vs- ) FACTUAL BACKGROUND,  
 ) CONCLUSIONS OF LAW,  
 ) ORDER and OPPORTUNITY  
THE DEPARTMENT OF REVENUE ) FOR JUDICIAL REVIEW  
OF THE STATE OF MONTANA )  
 )  
Respondent, )  
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The State Tax Appeal Board heard this matter on the record pursuant to **15-2-301. Appeal of county tax appeal board decisions.**

*(2) ... The state board may, in its discretion, determine the appeal on the record if all parties receive a copy of the transcript and are permitted to submit additional sworn statements, or the state board may hear further testimony.*

Mildred L. Bauman (Appellant) submitted additional comments and documentation to the Board on March 7, 2005. The DOR (Respondent) submitted additional comments and documentation on April 20, 2005. In addition, the Board requested that the DOR provide further explanation for the vacant land sales introduced at the CTAB hearing. The DOR's answer was received April 22, 2005.

The duty of this Board is to determine the appropriate market value for the property based on a preponderance of the evidence.

By statute (15-2-301, MCA) this Board may affirm, reverse or modify any decision rendered by the county tax appeal board.

The Board affirms the decision of the Blaine County Tax Appeal Board (CTAB).

**FINDINGS OF FACT**

1. Due, proper, and sufficient notice was given of this matter, the hearing hereon, and of the time and place of the hearing. All parties were afforded opportunity to present evidence.
2. The subject property is described as a vacant tract of land located in:

SE 1/4 of the SW 1/4 of Section 24, Township 32 North, Range 19 East, Blaine County, State of Montana. Geo-code # 24-4445-24-3-04-01-0000. Assessor # - 4210.
3. For tax year 2003, the DOR valued the land at \$12,991.
4. The Taxpayer filed an AB-26 Property Review Form with the DOR on 7/21/03, and the DOR reduced the value of the land to \$5,586.
5. Based on the DOR's response to the AB-26, the Taxpayer filed an appeal with the Blaine County Tax Appeal Board ("CTAB") on September 8, 2003, requesting the market value for the property be set at \$713, with additional comments attached to the appeal form.
6. The CTAB denied any reduction in value, stating:

Felt value was same as like properties. Fair market value.

7. The Taxpayer appealed that decision to this Board on July 2, 2004, stating:

There are no "like properties" around this small barren vacant undeveloped 7.13 acre land parcel in agricultural area 5 ½ miles south of Chinook! Property is not "near town" & is not a "like property near town"! Disapproval is not reasonable and "feeling" of local Tax Bd. is (sic) not based on real facts! I wish to appeal to State Tax Board for reconsideration & logical decision based on facts! Thank You!

8. The Board elected to decide this appeal based upon the record created before the CTAB and permitting each party the opportunity to supplement the record with additional comments and evidence, pursuant to **§15-2-301. Appeal of county tax appeal board decisions.**

9. The Board requested that the DOR provide additional documentation in support of the sales data that was presented before the CTAB. The DOR complied with the Board's request.

#### **TAXPAYER'S CONTENTIONS**

The Taxpayer does not dispute that, at the time of the appeal, subject property does not meet the agricultural qualifications test pursuant to Montana law, but for thirteen years the property was classified as agricultural grazing land (Taxpayer submission 3/7/05).

The Taxpayer asserts that there is no justification for the DOR's increase in value from \$713 to \$5,586 for a property that

lacks so many amenities, i.e. location, access, water, etc. Therefore, the value should remain at \$713.

#### DOR CONTENTIONS

It is the DOR's position that it properly appraised the subject property, and seeks to have this Board uphold its value determination of \$5,586 pursuant to the AB-26 adjustment.

Pursuant to statute, the DOR is required to periodically revalue all class four property in the State of Montana.

**15-7-111. Periodic revaluation of certain taxable property.** (1) The department shall administer and supervise a program for the revaluation of all taxable property within classes three, **four**, and ten... (3) Beginning January 1, 2001, the department of revenue shall administer and supervise a program for the revaluation of all taxable property within classes three, **four**, and ten. A comprehensive written reappraisal plan must be promulgated by the department. The reappraisal plan adopted must provide that all class three, **four**, and ten property in each county is revalued by January 1, 2003, and each succeeding 6 years... (Emphasis supplied).

The DOR originally determined a value for the subject property of \$12,991. The local DOR appraiser, Shellie McMaster, determined that the Computer Assisted Land Pricing (CALP) model that established the value required further adjustment based upon local land sales. It was determined that the local sales data suggested a downward adjustment of 57%. This downward adjustment resulted in the revised value of \$5,586 (DOR submission of 4/20/05).

For the previous appraisal cycle, 1997, the taxpayer appealed

the DOR's value determination, and requested a value of \$713 for the subject property. The CTAB failed to hear the appeal; therefore, the Taxpayer's value was established to be \$713. §15-

**15-103. Examination of applicant -- failure to hear application**

*(2) Except as provided in 15-15-201, if a county tax appeal board refuses or fails to hear a taxpayer's timely application for a reduction in valuation of property, the taxpayer's application is considered to be granted on the day following the board's final meeting for that year. The department shall enter the appraisal or classification sought in the application in the property tax record.*

The DOR asserts that the Taxpayer has not provided any supporting market data that would suggest a value of \$713 for the subject's 7.13 acres.

It is the opinion of the DOR that the subject property does not qualify for classification as Class 3, agricultural land, pursuant to **§15-7-202. Eligibility of land for valuation as agricultural.** Therefore, the DOR was required to value the property as **§15-6-134. Class four property.** The value of Class 4 property is determined pursuant to **§15-8-111. Assessment -- market value standard -- exceptions.**

*(1) All taxable property must be assessed at 100% of its market value except as otherwise provided.  
(2) (a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.*

It is the opinion of the DOR that it has properly determined the value of the Taxpayer's property and this Board should uphold the decision of the CTAB.

#### **BOARD DISCUSSION**

The Taxpayer has requested this Board reinstate the previous appraisal cycle value of \$713. In 1997, the DOR reappraised the taxpayer's property and the taxpayer appealed to the CTAB, requesting a value of \$713. The CTAB failed to hear the appeal; therefore the value was set at the requested amount of \$713. §15-

#### **§15-103. Examination of applicant -- failure to hear application**

*(2) Except as provided in 15-15-201, if a county tax appeal board refuses or fails to hear a taxpayer's timely application for a reduction in valuation of property, the taxpayer's application is considered to be granted on the day following the board's final meeting for that year. The department shall enter the appraisal or classification sought in the application in the property tax record.*

The value of \$713 remained on the tax rolls for the entire appraisal cycle, 1997-2002. The DOR reappraised the property again on January 1, 2003, pursuant to §15-7-111. **Periodic revaluation of certain taxable property.**

*(1) The department shall administer and supervise a program for the revaluation of all taxable property within classes three, **four**, and ten...*

*(3) Beginning January 1, 2001, the department of revenue shall administer and supervise a program for the revaluation of all taxable property within classes three, **four**, and ten. A comprehensive written reappraisal plan must be promulgated by the department.*

*The reappraisal plan adopted must provide that all class three, **four**, and ten property in each county is revalued by January 1, 2003, and each succeeding 6 years... (Emphasis supplied).*

The taxpayer has not provided any market data support for a value of \$713.

The subject property clearly does not meet the size nor income requirements for consideration as class 3 agricultural property pursuant to **§15-7-202. Eligibility of land for valuation as agricultural.** Therefore, the subject property's proper classification is Class 4 property. **§15-6-134. Class four property -- description -- taxable percentage.**

*(1) Class four property includes: (a) subject to 15-6-201(1)(z) and (1)(aa) and subsections (1)(f) and (1)(g) of this section, all land, except that specifically included in another class; (iv) vacant residential lots.*

Vacant land within Class 4 is valued pursuant to **§15-8-111.**

**Assessment -- market value standard -- exceptions.**

*(1) All taxable property must be assessed at 100% of its market value except as otherwise provided.  
(2) (a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.*

The DOR's duty is to establish the market value for this property based upon comparable vacant land sales. Before the CTAB, the DOR presented four land sales within the vicinity of Chinook that suggested a value of \$1,000 per acre (Exhibit C). Summarized,

this exhibit illustrates the following:

<u>Sale #</u>	<u>Sale Date</u>	<u>Sale Price</u>	<u>Lot Size (acres)</u>	<u>Price Per Acre</u>
1	Mar-98	\$5,000	5.0	\$1,000
2	Jun-99	\$5,500	5.0	\$1,100
3	Jun-99	\$5,000	5.0	\$1,000
4	Nov-97	\$5,000	5.0	\$1,000

The DOR's Computer Assisted Land Pricing (CALP) model suggested a value for the subject property \$12,991. The DOR reduced that value by 57% to \$5,586 based upon the aforementioned sales. The DOR's CALP model was based upon one hundred and seven land sales from Fergus, Hill, Chouteau, Toole, Blain, Teton, and Glacier Counties (DOR Record Exhibit).

This Board requested the DOR provide additional sales data for the four Chinook sales that resulted in a reduced value, along with a map depicting their respective locations.

Of the one hundred and seven land sales, five were in Blaine County. Based upon the geo-codes, they are not the same sales used by the DOR to arrive at the adjusted value. The sales used by the DOR in the development of CALP were presented at the Board's request, but the DOR did not provide any sort of description for the CALP sales; therefore the Board cannot make any useful comparison to the subject.

The sales illustrated on Exhibit C are all located in what appears to be the same subdivision, three miles southeast of Chinook. The subject is located approximately six miles south of

Chinook. Based upon the information in the record, the subject is considered inferior to the four Exhibit C sales. Without any additional market data, the Board is unable to justify further reduction in value beyond what the DOR established.

**CONCLUSIONS OF LAW**

1. The State Tax Appeal Board has jurisdiction over this matter. Section 15-2-301, MCA.
2. The State Tax Appeal Board may affirm, reverse or modify any decision rendered by the county tax appeal board. Section 15-2-301, MCA.
3. All taxable property must be assessed at 100% of its market value except as otherwise provided. Section 15-8-111(1), MCA.
4. Section 15-7-111. Periodic revaluation of certain taxable property.
5. Section 15-15-103. Examination of applicant -- failure to hear application.
6. Section 15-7-202. Eligibility of land for valuation as agricultural
7. Section 15-6-134. Class four property -- description -- taxable percentage.

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ORDER

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject property shall be entered on the tax rolls of Blaine County by the local Department of Revenue office at \$5,586.

The decision of the Blaine County Tax Appeal Board is affirmed.

Dated this 3rd day of June, 2005.

BY ORDER OF THE  
STATE TAX APPEAL BOARD

( S E A L )

\_\_\_\_\_  
GREGORY A. THORNQUIST, Chairman

\_\_\_\_\_  
JOE R. ROBERTS, Member

\_\_\_\_\_  
SUE BARTLETT, Member

NOTICE: You are entitled to judicial review of this Order in accordance with Section 15-2-303(2), MCA. Judicial review may be obtained by filing a petition in district court within 60 days following the service of this Order.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 3rd day of June, 2005, the foregoing Order of the Board was served on the parties hereto by depositing a copy thereof in the U.S. Mails, postage prepaid, addressed to the parties as follows:

Mildred Bauman  
P. O. Box 720141  
San Jose, CA 95172-0141

Appraisal Office  
Blaine County  
Chinook, Montana 59523

Ms. Dorothy Thompson  
Property Tax Assessment  
Department of Revenue  
Mitchell Building  
Helena, Montana 59620

Blaine County Tax Appeal Board  
c/o John Overcast  
RR1 Box 73  
Chinook, Montana 59523

Appraisal Office  
c/o Chuck Pankratz  
Cascade County  
300 Central Avenue  
Suite 520  
Great Falls, Montana 59401

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DONNA EUBANK  
Paralegal